

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL DEPOSIT INSURANCE
CORPORATION as receiver for INDYMAC
BANK, F.S.B.,

Plaintiff,

vs.

STEVEN C. SIMON., *et al.*,

Defendants.

Case No. 2:11-cv-01001-GMN-GWF

ORDER

Motion to Extend Time and Serve
by Publication (#18)

This matter is before the Court on Plaintiff's Motion to Extend and Enlarge the Time to Serve Summons and Complaint on Defendant Sherri R. Speights and Request for Order to Serve Defendant Sherri R. Speights Via Publication (#18), filed on September 1, 2011.

Pursuant to Fed. R. Civ. P. 4(e), the state statutes in which the District Court is held are followed in matters pertaining to service of summons by publication. N.R.C.P. 4(e)(1)(I) states that the court may permit service by publication if, after due diligence shown, the plaintiff is unable to find the defendant(s) within the state, or they are avoiding the service of summons. The plaintiff must prove this to the satisfaction of the court either by affidavit or by a verified complaint. The Nevada Supreme Court has held that there is no objective, formulaic standard for determining what is, or is not, due diligence. *Abreu v. Gilmer*, 985 P.2d 746, 749 (1999).

Plaintiff has shown by its motion and affidavit, that after due diligence, Defendant's present address cannot be found. Plaintiff has demonstrated due diligence in attempting service that would warrant permitting service by publication. Accordingly,

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8 DATED this 2nd day of September, 2011.

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